

1 considering arguments that Plaintiff had not presented, ie., the
2 duty to develop the record. (Defendant's Objections, "Objections,"
3 at 2-3). Defendant also contends that the record was fully
4 developed, pointing out that the ALJ was not required to consult a
5 medical expert because Plaintiff requested a decision on the
6 evidence in the record. (Id. at 4). Plaintiff concedes that, while
7 the ALJ did not have a duty to consult a medical expert or a
8 vocational expert, once the ALJ acknowledged the need for a medical
9 expert, he was required to do so in order to fully develop the
10 record. (Id. at 3-4).

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12 The Court finds that the ALJ did not adequately develop the
13 record in this case by failing to consult a medical expert regarding
14 the effect of Plaintiff's infection on her claimed disability.
15 Although the regulations do not require the ALJ to obtain medical
16 expert testimony, here the ALJ stated, at the conclusion of the
17 administrative hearing, that he would be propounding interrogatories
18 to an immunologist in order to determine whether Plaintiff's
19 condition was equivalent to a listing (A.R. 69). This indicates
20 that the ALJ did not consider the record fully developed on this
21 issue. The ALJ subsequently issued interrogatories to a medical
22 doctor but failed to follow-up when that doctor did not respond to
23 the interrogatories. Thus, the ALJ did not fully develop the record
24 in this case and the Court finds that remand is appropriate for
25 further consideration of this issue.

26
27 Defendant contends that the ALJ was not required to consider
28 the lay witness testimony of Plaintiff's husband because he was not

1 an "acceptable medical source" under the regulations and that his
2 testimony could therefore be disregarded for germane reasons.
3 Defendant claims that the ALJ gave germane reasons for discrediting
4 the testimony of Plaintiff's husband based upon its inconsistency
5 with the medical evidence and for the same reasons that the ALJ
6 rejected the Plaintiff's own testimony. (Objection at 7-11).

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8 Under 20 C.F.R. § 404.1513(d)(4), evidence from non-medical
9 sources such as spouses can be considered to show the severity of
10 a claimant's alleged impairments and the effect of the impairments
11 on a claimant's ability to work. Here, the ALJ discredited the
12 statements of Plaintiff's husband because the statements were
13 unsworn and because of his "implied bias toward the claimant given
14 his interest in the outcome of the case." (A.R. 33). As set forth
15 in the Magistrate Judge's Report and Recommendation, (1) the ALJ
16 erred in disregarding the testimony on these grounds; and (2) to the
17 extent the ALJ determined that the lay witness testimony was "not
18 fully consistent with the medical opinions and other evidence,"
19 (A.R. 33), this finding is insufficiently specific to support the
20 ALJ's decision to disregard the testimony. See Bruce v. Astrue, 557
21 F.3d 1113, 1115 (9th Cir. 2009).

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23 The Court has reviewed and considered Defendant's remaining
24 Objections to the Report and Recommendation which are without merit
25 and do not cause the Court to reconsider its decision to accept the
26 Magistrate Judge's conclusions and recommendations.

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28 Finally, Plaintiff's request that the case be assigned to a

1 different ALJ is meritless. (Response at 7-8). Plaintiff has not
2 carried her considerable burden of demonstrating judicial bias. See
3 Liteky v. United States, 510 U.S. 540, 555 (1994) ("judicial rulings
4 alone almost never constitute a valid basis for a bias or partiality
5 motion . . . judicial remarks during the course of a trial that are
6 critical or disapproving of, or even hostile to, counsel, the
7 parties, or their cases, ordinarily do not support a bias or
8 partiality challenge"); see also Verduzco v. Apfel, 188 F.3d 1087,
9 1089-90 (9th Cir. 1999) ("ALJs and other similar quasi-judicial
10 administrative officers are presumed to be unbiased").
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12 IT IS ORDERED that: (1) the Report and Recommendation is
13 accepted and adopted as the Findings of Fact and Conclusions of Law
14 herein; (2) the decision of the Administrative Law Judge is vacated;
15 and (3) the matter is remanded to the Social Security Administration
16 for further administrative action consistent with the Report and
17 Recommendation.
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19 IT IS FURTHER ORDERED that the Clerk shall serve forthwith a
20 copy of this Order, the Magistrate Judge's Report and Recommendation
21 and the Judgment on counsel for Plaintiff and on the United States
22 Attorney for the Central District of California.
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24 DATED: February 19, 2014.

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28 VIRGINIA A. PHILLIPS
UNITED STATES DISTRICT JUDGE